



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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June 18, 2015

Sheetz, Inc.
c/o Bob Franks
5700 Sixth Avenue
Altoona, PA 16602

**RE: V15-31 thru V15-35 / Sheetz, Inc. / Grafton Road
Tax Map 6, Parcel 4.6**

Dear Mr. Franks:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the subject development at the intersection of Hornbeck Road and Grafton Road. The decisions are as follows:

Board of Zoning Appeals, June 17, 2015:

V15-31 – Variance petition concerning minimum building height.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted the following variance relief from Article 1353.05(A) as requested without conditions:
 - a. To permit the construction of a principal building less than the twenty-five (25) foot minimum building height as illustrated in plans reviewed herein.

V15-32 – Variance petition concerning sidewalks.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted the following variance relief from Article 1353.07(E) as requested for an alternate sidewalk proposal with the following condition:
 - a. That, to the satisfaction of the City Engineer, a bus shelter pad be developed, in consultation with Mountain Line Transit, at the southwest corner of the Hornbeck Road / "Common Access" road intersection; that a sidewalk, with a minimum width of six (6) feet, be constructed on the opposite side of the "Common Access" road from the *Sheetz* development site; that said sidewalk must begin at the subject new bus shelter pad and continue along the "Common Access" road past the first *Sheetz* driveway curb cut; that a marked crosswalk be developed connecting said sidewalk with a pedestrian way to the *Sheetz* store; that a surety bond be secured by the petitioner to the satisfaction of the City Engineer for the development of the subject bus shelter pad and sidewalk; and, that said bus shelter pad and sidewalk past the first *Sheetz* driveway curb cut must be constructed prior to the issuance of a Certificate of Occupancy for the *Sheetz* store.

V15-33 – Variance petition concerning maximum parking standard.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted the following variance relief from Article 1365.04(I) as requested without conditions:
 - a. To permit the development of up to eight (8) parking spaces above the maximum number of parking spaces otherwise permitted.

V15-34 – Variance petition concerning drive-through stacking stalls.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted the following variance relief from Article 1365.05 and 1365.09(B)(4)(c) as requested with the following condition:
 - a. That the five (5) parking spaces adjoining the dumpster enclosure facility be restricted to employee parking only and be marked and/or signed accordingly.

V15-35 – Variance petition concerning parking area bufferyard.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted the following variance relief from Article 1367.08(C)(1) as requested without conditions:
 - a. To permit the development of a buffer area less than 10 feet in width along the Grafton Road right-of-way boundary as illustrated in plans reviewed herein.

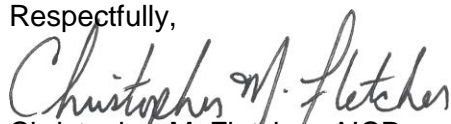
Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the conditional use and variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,



Christopher M. Fletcher, AICP
Director of Development Services

ADDENDUM A

Approved Findings of Fact

Case No. V15-31 Minimum Building Height Standard

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Building height will have no effect on the functionality of this site, the business conducted on it, or the circulation of the development. The other buildings within the B-5 District south of Interstate 68 appear to be less than the minimum building height standard and do appear to present an adverse impact.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

This property is uniquely located outside of the City limits but with a portion of the planned development site to be located within a prior road R/W which fell under the Morgantown corporate limits. As a result, the entire site will be incorporated into the City and is now subject to planning and zoning codes that it otherwise would not have been required to meet.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The size and interior of the Sheetz facility will not change regardless of the building height. Adding additional height to the building would create an increased cost and added construction time that does not appear necessary for the use of this development.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The intent of the minimum building height was to increase density within a smaller development footprint and is most relevant to office buildings, multi-family developments, and other types of retail spaces. The layout of this facility would not be changed as a result of a higher roofline. The gas station/food service business would not function with a multi-story structure.

Case No. V15-32 Sidewalks

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

There are no existing sidewalks or a walking path network near the site at present day and the Grafton Road / Hornbeck Road intersection does not provide a pedestrian crosswalk access. Providing a sidewalk at the frontage of this lot along Hornbeck Road would serve no real purpose as it would not have anything to connect to. The alternate sidewalk location will link transit riders to the site and will also serve to establish additional sidewalk construction as further development is delivered on the side of the “Common Access” road opposite the Sheetz development site thereby integrating the entire development with pedestrian facilities.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The property is located along high traffic routes that do not serve pedestrian traffic and there are no other business, housing, etc. within the immediate area that would access the site on foot.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Constructing a sidewalk at the frontage location along Hornbeck Road would be ineffective as there are no means for pedestrian traffic on either side of the property. Allowing an alternative to provide an internal sidewalk that will ultimately create connectivity between the *Sheetz* and other future business within this overall parcel of land would have a much more positive effect on the development and community.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The intent is to provide for pedestrian connectivity. Construction of the sidewalk at the property frontage by code does not provide that for this specific site. Allowing a substitute to construct the sidewalk along the entrance will better meet the intent of the code.

Case No. V15-33 Maximum Parking Standard

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Providing more parking spaces will actually create a safer environment for this proposed use, preventing traffic backups outside the development and improve internal circulation.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

This property, though located in the City limits, does not have a connection to the City (proper) and is not accessible by foot traffic from other businesses, parking areas, etc. Patrons of this business must access the site from automobile traffic or public transit. Given that the overwhelming majority of the business from the site will be obtained through automobile traffic due to its geographic location, variance relief appears warranted.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

This site is remote compared to the other property within the City's boundaries and highly dependent upon automobile traffic in order to serve the public.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The intention of limiting the amount of parking spaces is not to hinder a business but to encourage connectivity within urban areas, utilizing existing parking structures, sharing lots with other business, etc. This site is unique with the city limits because of its remote location. The applicant is only asking for a variance to provide additional parking spaces for what they feel is needed based on historical data and existing traffic information at this location.

Case No. V15-34 Drive-Through Stacking

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The drive thru currently allows for 5 to 6 spaces behind the pickup window and another 4 spaces behind the ordering station which effectively gives 9 to 10 stacking stalls. In addition, the 3 parking spaces that are potentially obstructed will be employee parking spaces and will not be needed for routine turnover.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The current lot configuration and access points make deliveries challenging. The separation of the drive thru aisle between the pickup window and ordering station allows for better circulation completely around the building for deliveries and other traffic.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The intent of the code is met by allowing enough stacking stalls to keep from obstructing the ingress and egress of patrons. The configuration is unique and is not currently considered in the existing code.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed plan actually provides more stacking within the entire drive thru than what is required by code. The pickup window allows for stacking of 5 to 6 parking spaces, the order station allows stacking for 4 spaces, and there is actually room for 2 or more cars between the order station and the stop bar, giving a total of 11 to 12 stacking stalls which is double the amount that would be required otherwise. Also, the intent of unobstructed parking stall requirement is to prevent patrons from getting blocked in. In this case, if an obstruction were to occur, it would block in an employee. Shift changes do not typically occur at times of high traffic when multiple cars are expected to be using the drive thru.

Case Nos. V15-35 Parking Area Bufferyard

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The code provides for aesthetic feature and intends to create spacing from newly developed areas. An adequate buffer will still be left on this site but will be contained within the right-of-way instead of on the property location

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The right-of-way for Grafton Road is very large at this location (well over 150 feet).

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The parking area and dumpster does not sit adjacent to another property but instead is

located adjacent to a public right-of-way which is in excess of 150 feet in width.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

A grassed area of 28 feet in width will remain between the parking area/dumpster and US 110 at this location. This buffer area will be located within the DOH right-of-way and must remain for roadside drainage (this width remains even after the addition of a new turn lane on US 199).